

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

Criminal Action No. 1:14-CR-366 (MAD)

SHAKIR MICHAEL,

Defendant.

VOIR DIRE REQUESTS OF THE UNITED STATES

Dated: March 9, 2015

RICHARD S. HARTUNIAN
United States Attorney

/s/ *Robert A. Sharpe*
By: Robert A. Sharpe
Assistant U.S. Attorney
Bar Roll No. 302573

VOIR DIRE REQUESTS OF THE UNITED STATES

The United States asks the Court to inquire into general matters concerning each potential juror, including the juror's name, city of residence, employment, educational background, hobbies, and occupations of spouse and children. The United States further requests that the Court ask potential jurors the following questions:

1. Do you know the defendant? Have you or any family member had any relationship or dealings with the defendant?
2. Do you know, or have you or any member of your family been represented by defense counsel Arthur Frost? Have you or any family members or business associates had any dealings with any attorney from Mr. Frost's Office, which is Frost and Kavanaugh?
3. Do you know the United States Attorney Richard S. Hartunian or Assistant United States Attorney Robert Sharpe?
4. Do you know any of the following people who may testify or be mentioned during this trial? Please note that this is only a list of people who may testify on behalf of the Government or the Defendant, neither side is under any obligation to call each and every one of all the witnesses listed here.

[The Court is asked to read the names submitted by the parties as their potential witnesses.]

5. There are two counts in the Indictment against the Defendant. The allegation in Count 1 is that as a previously convicted felon, the defendant unlawfully possessed a firearm. The allegation in Count 2 is that the Defendant's possession of that firearm was in furtherance of a drug trafficking crime, that is, distribution of crack cocaine.

It is unlawful to distribute or to possess with the intent to distribute controlled substances, including crack cocaine. Count 2 deals, in part, with that subject matter—that is—drug trafficking activity.

Have you had any experiences, whether personally or as a result of the experiences of family members or close friends, or do you have any feelings about this subject, that would make it difficult for you to be an impartial juror in this case?

6. Have you or any family member or close friend had a problem with drugs?

- a. What was the nature of the problem?
- b. Would anything about that experience impair your ability to be an impartial juror in this case?

Can you assure the Government and the Defendant, that you can put aside whatever personal feelings and experiences that you have had and follow the law as I give it to you?

7. Is there any member of the jury panel who personally believes that the criminal laws relating to controlled substances, including cocaine and crack cocaine, should be abolished or not enforced?

8. Is there any member of the jury panel who is or has been associated in any manner with a group, society, or organization (such as NORML or Reconsider) which advocates or supports the abolition or revision of the laws relating to the possession, use, or sale of marijuana, crack cocaine, or other controlled substances?

9. Count 1 of the Indictment charges the defendant with being a person who has been convicted of a crime punishable by a term of imprisonment exceeding one year, that is, a felony offense, and alleges that he unlawfully possessed a firearm. Do you have any feelings about this subject that would make it difficult for you to be an impartial juror in this case?

10. Is there any member of the jury panel who personally believes that the criminal laws relating to the possession of a firearm by a person who has previously been convicted of certain crimes should be abolished or not enforced? Does anyone believe that violations of firearms offenses should not be criminally prosecuted by the federal government, that is, is anyone opposed to any and all restrictions of the right to possess firearms?

11. Do you or a member of your family belong to any group or organization, that takes a position on or advocates for firearms ownership possession or rights associated with the Second Amendment to the Constitution? An example of such a group would be the National Rifle Association.

12. Do you or any member of your family own firearms? If so, what kind of firearms?

13. Firearms are regulated by federal laws which are primarily enforced by the U.S. Bureau of Alcohol, Tobacco Firearms and Explosives, sometimes known as ATF. Have you or any member of your family ever had any business with ATF? Might that experience affect your ability to decide this case based on the evidence presented and the instructions on the law you receive?

14. I will note that in addition to ATF the other primary law enforcement agency involved in the investigation of this case, was the Albany Police Department. Have any of you personally or a family member or close friend had any experiences with the Albany Police Department or any law enforcement agency for that matter, which would affect your ability to be a fair and impartial juror in this case?

15. Do you, your spouse, a relative, or close friend:

a. Work in law enforcement?

- b. Work for a lawyer?
- c. Have any education, training, or experience in the law, law enforcement, or criminal justice?

16. It is expected that a number of police officers will testify during this trial. A police officer's testimony is to be judged and assessed in the same manner as that of any other witness? They are entitled to no more or less weight necessarily than other witnesses simply by the fact they are police officers. If you are chose to sit as a juror in this case, can you make the commitment to the parties that you will judge the testimony of officers in the same manner you do any of the witnesses in the case?

17. Do any of you think that law enforcement or the criminal justice system is not fair? Have you or anyone close to you had an experience or do you have feelings about the judicial system or law enforcement agencies that would make it difficult for you to be impartial and base your verdict only on the evidence in this case? Have you had any favorable or unfavorable experience with a law enforcement officer, a lawyer, or a judge?

- a. If so, are your feelings so strong that they would affect your ability to consider the evidence in this case?
- b. If so, are your feelings so strong that you would not be willing to consider the evidence with the other jurors after you have heard all the evidence and my instructions on the law?

18. For the following questions, please raise your hand if the answer is yes, and I will ask you to come up to the Bench to inquire further.

- a. Have you or any family member or even any close friend ever been charged with a crime?

1. What were the charges?
2. What was the outcome?
3. Would anything about that experience impair your ability to be an impartial juror in this case?

19. Have you or any family member ever been the subject of an investigation or audit by any agency of the United States Government, or ever been a party in a prosecution or lawsuit involving the Federal Government?

20. Have you or any family member or close friend ever been the victim of any crime or participated in a criminal case as a complainant, a witness, or in some other capacity?

a. Without going into detail, please describe the nature of that experience.

1. Report the crime to police?
2. File a police report/affidavit with police?
3. Testify before a Grand Jury or at Trial?
4. Aware of outcome of case?

b. Would anything about that experience make it difficult for you to serve as an impartial juror in this case?

21. Have you ever served as a juror in a criminal or civil case in either Federal or state court?

- a. Was it a civil or a criminal case?
- b. Without stating the verdict, please state whether the jury reached a verdict.
- c. Has your experience as a juror influenced your opinion of this case in any way?

d. Will you be able to judge the facts of this case fairly and impartially based on the evidence presented to you without reference to your past participation as a juror?

e. Will you accept the law as I give it to you without regard to what was said by any other judge in any other case?

f. Do you feel that your participation as a juror at another time would in any way impair your ability to be a fair and impartial juror in the trial of this case?

22. Have you ever served as a member of a Grand Jury?

a. Was it a Federal Grand Jury or a state or local Grand Jury?

b. Will you accept the law as I give it to you in this case without regard to any legal instructions you received in connection with serving as a Grand Juror?

c. Do you feel that your participation as a Grand Juror would in any way impair your ability to be a fair and impartial juror in the trial on this case?

23. Have you ever had, do you now have, or do you anticipate having any case or dispute with or claims against the United States Government?

a. What is the nature of your actual or potential dispute, case or claim with the United States Government?

b. How does the existence or possibility of such a dispute, case or claim bear on your ability to be an impartial juror on this case?

24. Do you now, or have you ever held an elected or appointed public office or position, or been an officer of a private organization?

a. If so, when?

b. With what organization or entity?

- c. What was the office or position?
- d. What were your duties and responsibilities?
- e. Do you think that your experience in that office or position would in any way affect your ability to sit as a juror in this case?

25. Have you ever been in any branch of the armed forces of the United States?

- a. Which branch?

26. In this trial it is expected that the Government will call as a witness a defendant who has been convicted of a felony offense and who is now cooperating with the Government. Through such plea and cooperation it may be the hope of the witness that they receive consideration from the Government and ultimately a more lenient sentence. If you find the testimony of such witness to be credible, will you be able to consider it along with all the other evidence in the case in reaching your verdict?

27. Is there any member of the jury who feels that he or she could never return a verdict of guilty in any criminal case where an individual who testifies has a criminal record?

- a. Are you satisfied that you could listen to the testimony of a witness who may have a criminal record and fairly weigh his or her credibility just as you would weigh the credibility of any other witness?

28. If you were to learn that a cooperating defendant would testify against the defendant in this case, could you still decide this case impartially?

- a. Do you feel that people should not cooperate with the government or testify against other defendants or people they associate with?

b. Are you satisfied that you could listen to the testimony of a cooperator and fairly weigh his or her credibility just as you would weigh the credibility of any other witness?

29. Do you have a problem with your hearing, your eyesight, ability to sit relatively still for extended periods or any other physical disability, which would in any manner prevent you from either hearing, seeing or paying attention to the evidence presented at trial?

a. Are you taking any medication that might interfere with your ability to concentrate, understand, consider, and reasonably weigh the evidence in this case?

b. Do you have any physical, emotional or psychological issues that would prevent you from sitting on a jury and rendering a fair and impartial verdict?

c. Do you have a sufficient understanding of the English language to allow you to read the exhibits introduced into evidence and to understand the testimony of the witnesses?

30. Do you have any hardship or other problem, even a financial hardship from being away from work for the duration of this trial, which would prevent you from serving as a juror in this case?

31. Will you have any problem or hesitation accepting the fact that it is the Court who will instruct you as to the applicable law, or any problem or hesitation following those instructions, irrespective of your personal beliefs and opinions as to what the law should be?

32. Do you have any commitments or beliefs, religious or otherwise, that would prevent you from sitting as jurors and finding the defendant guilty of the crimes with which he

has been charged if the evidence submitted to you proves him to be guilty beyond a reasonable doubt?

33. The law requires that you base your verdict on the facts as you find them from the evidence. The law does not permit you to consider things outside the evidence and law such as race, prejudice, sympathy, vengeance, fear, or hostility for or against either side in this case. Would you find it difficult to put these things and emotions out of your mind when you deliberate?

34. Will you have any problem or hesitation finding the Defendant not guilty, should the Government fail to prove all of the elements of the crimes charged in this case beyond a reasonable doubt?

35. Will you have any problem or hesitation finding the Defendant guilty, should the Government prove all of the elements of the crimes charged in this case beyond a reasonable doubt?

36. Do you know of any reason why, after you have heard the evidence in this case and received the instructions of the Court, you could not render a fair and impartial verdict, both to the Government and to the Defendant? Do you know of any other reason why you could not be a fair and impartial juror in this case?

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SHAKIR MICHAEL,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2015, I electronically filed the **Government's Proposed Voir Dire request** with the Clerk of the District Court using the CM/ECF system.

Arthur R. Frost, Esq.

/s/Robert A. Sharpe
Robert A. Sharpe
Assistant U.S. Attorney